IN THE HIGH COURT OF JUDICATURE AT BOMBAY

A.S.

Writ Petition No.2l96 of 2005

Abdul Rasheed Mohd Basheer Ansari..Petitioner
vs
The Divisional Controller
MSRT Corpn and anr..Respondents

Mr I R Kurlkarni for petitioner
Mr. G.S.Hegde for respondent nos.l and 2

CORAM: A.P.SHAH J.

Dated 17.6.2005

P.C:

l. The petitioner was on duty as Conductor on 8.ll.l999 on route Bhiwandi to Borivali via Saibaba nagar Kapurbawdi. The bus was checked at Kapurbawadi by the checking squad and it was found that 7 passengers were alighting without tickets. On inquiry it was revealed that they had paid the ticket fair but till the bus was checked the petitioner did not issue them the tickets. The cash box in possession of the petitioner was also found to be deficit by Rs.ll for which the petitioner could not satisfactory explanation. The petitioner was thereafter issued a chargesheet and after holding departmental inquiry he was found guilty and his services came to be terminated.

2. The petitioner filed Complaint (ULP) No.9l of

2000 before the Labour Court under MRTU and PULP Act, l97l. The Labour Court by Part I order dated 29.l2.2002 held that the departmental inquiry conducted by the Corporation was not fair and proper. The Corporation then led evidence of one Satish Mhalas Asst Traffic Inspector to prove the charge. The Corporation also produced documentary evidence in support of the charge. The Labour Court,however, discarded the entire evidence led by the Corporation mainly on the ground that the passengers who found travelling without ticket after paying the fare charges were not examined by the Corporation. The Labour Court held that the Corporation has engaged unfair labour practice under item l(a), 9(b) (d), (f) and (g) of Schedule IV of the MRTU and PULP Act l97l and restrained the Corporation from terminating the services of the petitioner.

3. Aggrieved by the decision of the Labour Court the Corporation preferred Revision Application No.66 of 2004 before the Industrial Court Thane. The Industrial Court relying upon the decision of the Supreme Court in State of Haryana vs Ratan Singh l997 Labour and Industrial Cases 845 held that the employee cannot insist on the Corporation examinating concerned passengers. If the employee

was desirous of examining them it was for him to keep them present in the inquiry. The Industrial Court therefore accepted the evidence of Shri Satish Mhalas who had checked the bus in question and held that the charge has been proved and reversed the order of the Labour Court.

4. Mr Kulkarni learned counsel appearing for the petitioner contended that the Corporation has not challenged the order dated 29.ll.l992 i.e.Part I order and consequently it is precluded from raising any plea in respect of the fairness of the inquiry.The learned counsel also urged that in any event there was no sufficient evidence on record to hold that the petitioner was guilty of the charge levelled against him. I find no merit in the submission of the learned counsel. It is laid down by the Supreme Court in State of Haryana vs. Ratan Singh (supra) that strict and sophisticated rules of evidence under the Evidence Act may not apply to domestic inquiry. All material which are logically probative for prudent man are permissible. The evidence led by the Corporation was sufficient to prove the guilt of the petitioner. In the circumstances, no interference is warranted with the order of the Industrial Court. Petition is dismissed.